

## Minutes of the September 16, 2011 Regular Council Meeting

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Call to Order and Flag Salute at 3:30 pm by Mayor Serio.

Council in Attendance: Serio, Bunting, Langan, Tingle and Weistling  
Absent: Carmean and Smallwood

### President's Report

- Mayor Serio reported that the Tom Sombar CPA firm is conducting the annual audit in Town Hall.
- The Town Manager position has been advertised and approximately 25 applications have been received so far. The Search Committee will meet in October to review the applications and begin interviews shortly thereafter.
- Committee announcements will be made at the October 28, 2011 Regular Council Meeting. Interested citizens are urged to complete an application by mid-October.
- Work has begun on the new Public Safety Building.
- Mayor Serio explained that this meeting of Council was brought forward by one week due to the Council's cancellation of the August meeting. That meeting was cancelled due to the Hurricane Irene State of Emergency,
- Win Abbot will vacate the Town Manager position on September 21, 2011. Tom Wontorek has accepted the position of Interim Town Manager beginning September 26, 2011. Mayor Serio wished Mr. Abbott good luck in his next endeavor.

### Topics for Discussion and Possible Action

- 1) Amend Resolution #53-2011 Personnel Policy Manual Return to Work Policy

Mayor Serio advised that two areas needed minor revision and those are included here.

Motion to amend Resolution #53-2011 Personnel Policy Manual Return to Work Policy – Council Member Tingle  
Second – Council Member Langan

DISCUSSION - Council Member Weistling also noted a misspelling that requires correction. Since these changes correct language and do not materially affect the resolution, no formal resolution is required. The language changes will be incorporated into the Personnel Policy Manual by the Town Clerk.

Vote: (5-0) Motion passed

### Approval of Minutes:

Motion to Approve the Minutes of July 22, 2011 Meeting - Council Member Bunting  
Second: Council Member Langan

DISCUSSION - None

Vote: (5-0) to accept the minutes. Minutes approved.

### Treasurer's Report:

Council Member Bunting advised that the Town is in the process of undergoing its annual audit.

Motion to accept the Treasurer's report – Council Member Tingle  
Second – Council Member Weistling

DISCUSSION - Mayor Serio asked if there is a set date when the audit will be ready. Town Manager Abbott advised that the in-house work will be done by September 21, 2011 and the Council can expect a full report by the end of October. Council Member Bunting advised that there will be a Budget Committee meeting as soon as the final audit is received. Council Member Weistling noted the increase in Realty Transfer Tax this year.

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Vote: (5-0)

Treasurer's Report accepted.

## **Town Manager Report:**

- Mr. Abbott reported that his August 26, 2011 report is included in the meeting packet and as a hand-out. He assessed the Town's overall financial situation as being in good health. Income was less than expected but so were expenses.
- The solar panel project should be complete by the week of September 19, 2011. The vendor has replaced the roof and rearranged the panels.
- Mr. Abbott thanked Council for its support during his tenure as Town Manager.

## **Department Reports:**

- Building Official – Patricia Schuchman advised that her report is included in the meeting packet and that she had nothing further to add.
- Public Works - Report included in meeting packet. Town Manager Abbott reported he has produced a letter explaining the recent distribution of recycling bins to all properties in town. Town of Fenwick Island stickers are being printed and will be placed on all bins belonging to the town in about a week.
  - Mayor Serio questioned the schedule for removing the mobi mats. Mr. Abbott advised that the mats will be removed around September 30, 2011. They will be cleaned and put in storage by the Public Works staff.
  - The Public Works staff is in the process of replacing all the Christmas light bulbs with LEDs.
- Beach Patrol – Report included in meeting packet. Captain Tim Ferry advised, via Mayor Serio, that the town was fortunate to have had the beach replenishment project completed before Hurricane Irene passed through. Damage from the storm was less than he expected.
  - Council Member Weistling asked if the town will be storing its lifeguard stands at the State Park again this year; Town Manager Abbott advised that he will phone the park and arrange to have the stands brought over to them.
- Fenwick Island Police Department – Chief Boyden reported that they have had a marked increase in time spent assisting the State Police. DSP recently conducted a "re-sectioning" and has re-allocated its staff. This has left our area short of State Police personnel.
  - Mayor Serio asked if the Council/Town might send a letter to DSP and other officials to request that they revisit the reallocation of personnel. Chief Boyden explained that more State funds are being spent on Special Task Forces and Homeland Security, leaving the remainder of DSP short of funds for standard patrol activities.
  - Chief Boyden advised that most calls to assist are close by but could extend as far away as Williamsville to the west and South Bethany to the north. Most calls are for along the Route 54 corridor.
  - Mary Pat Kyle (1205 Bunting Ave) – asked Chief Boyden if fireworks were a problem this year. She expressed concern that they might ignite the mobi mats.

## **Committee Reports:**

- Beach Committee –no report
- Environmental Committee – no report
- Public Safety Building – Council Member Langan advised that construction activities have begun. Pile driving will take place through next week. The area is fenced off for safety. Please do not trespass on the worksite. Council Member Weistling added that construction will continue 6 days a week in order to get the building "under roof" before the winter.

**Planning Commission:** No report

## **Charter & Ordinance**

- Proposed First Reading Chapter 120 Property Maintenance – Council Member Weistling  
Council Member Weistling advised that he is withdrawing his request for the first reading since he has only just received input from the Town Solicitor. The C&O Committee will take another look at the change and reintroduce at the next meeting.

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**Old Business - None**

**New Business – No Action to be Taken - None**

**Public Participation:**

- Mary Pat Kyle (1205 Bunting Ave) – announced that there will be a tour of historic cottages on October 8, 2011. She has tickets available for purchase (\$15). Supply is limited to 200. You will be able to see the inside of the homes.
  - Mayor Serio thanked Mrs. Kyle for the article she wrote for the Delaware Beach Life Magazine about Libby's and Fenwick Island.
- Marlene Quinn (5 W Houston St) – advised that she had an opportunity to use the Lifeguard ATV this summer and appreciated it. Council Member Langan noted that Fenwick Island appears to be the only town to offer the service.
- Mike Quinn (5 W Houston St) – asked if Council has a way to determine how much money the town is saving by using solar power and if that information will be made available to the public. Council Member Bunting advised that the town is able to do that.
- Mike Quinn continued – by asking if the town has results of the mobi mat use and if we will be getting more. Mayor Serio advised that the response has been good and that the Town Budget and the availability of grant funds will determine if the Town is able to purchase more. Mr. Quinn asked if the town will be moving them to different streets next year; Mayor Serio asked Mr. Quinn to bring the subject back up for discussion next year.
- Mr. Quinn continued – by noting that he read in a local newspaper that the new Public Safety Building is too close to the existing Public Works Building. Council Member Langan advised that there is a fire separation between the buildings and that a firewall is planned.
- Lynn Andrews (1205 Schulz Rd) – advised that the Church parking lot on Dagsboro Street is being used for beach parking and asked if the Town could compel them to erect “no parking” signs. Mayor Serio noted that the Town might be able to print the signs and ask the property owners to post them.
- Mrs. Andrews continued – that there is a sale ad in a local paper for property on Route 1 indicating that the building is suitable for commercial use with an apartment above the commercial establishment. She asked if the prospective buyer will check with the Town first to determine what is an allowable use. Mayor Serio responded that they will.
- Mrs. Andrews continued – advising that the Fenwick Island Yacht Club has a bonfire permit but that a State burning ban is in effect. Chief Boyden advised that the bonfire on Fenwick Island beach is exempt.
- Mrs. Andrews continued – by stating that there appears to be a quantity of burned wood on the beach and asked if it will be picked up. Mayor Serio requested that Mrs. Andrews get in touch with Council Member Langan about the location of the debris so that it can be picked up at the Coastal Cleanup scheduled for tomorrow (Saturday, September 17, 2011).
- Gail Warburton (10 W Farmington) – advised that she believes it is a good idea to place “no parking” signs on the vacant lots and asked where they might be placed. Mayor Serio advised that the Town cannot go onto the property to make arrests or to issue tickets. She understands that parking in these lots takes away from Town revenue but that there are limits to what the Town can do.
- Mike Quinn (5 W Houston St) – asked for clarification on what is yard waste. Building Official Schuchman advised that yard waste/wood cannot be more than 4” in diameter nor 4’ in length. It should be bundled and not weigh more than 50 pounds.

**Upcoming Events and Meetings:**

- Mayor Serio announced all upcoming meetings and events.

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Motion to adjourn – Council Member Weistling

Second – Council Member Langan

Vote: (5-0)

Meeting adjourned at 4:10 PM.

Agnes DiPietrantonio, Town Clerk

For Diane Tingle, Secretary

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## AMENDMENT TO #53-2011

Passed 9.16.2011

### TOWN OF FENWICK ISLAND PERSONNEL POLICIES

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#### AMEND PERSONNEL POLICY MANUAL Council Resolution #53-2011

Section 4 EMPLOYEE WORK PRACTICES AND CONDITIONS OF EMPLOYMENT shall be amended to include a subsection entitled "Return to Work Policy" (4-16) as follows:

##### A. Policy

It is the policy of The Town of Fenwick Island to provide an Early Return to Work Program with reasonable accommodation for employees who have been injured or ill. This policy is established to provide meaningful work while not aggravating the employee's condition or creating the risk of liability to The Town.

##### B. Procedure

The following procedure shall be enacted by each department head and amended from time to time with the consent of Council.

- 1) Each job description shall be amended to include the physical attributes necessary to perform the functions of that job. The job description shall, furthermore, describe any modified duty or the availability of an interdepartmental transfer for a temporary work assignment.
- 2) An employee returning to work from an injury or illness may be required to demonstrate the same physical attributes required as a condition of employment if a modified duty assignment is not available. This demonstration shall be before a licensed medical professional chosen by The Town of Fenwick Island at Town expense.
- 3) If, in the opinion of the licensed medical professional, the employee is not capable of performing his/her job, the department head and Town Manager shall counsel the employee with regard to options of Sick Leave and Extended Leave Without Pay.
- 4) An employee who is provided with a temporary work assignment shall have his/her fitness re-evaluated by a licensed health professional in thirty (30) days. During such time, **while working for The Town**, the employee may not work outside of the modified duty job description.
- 5) The number of hours and days assigned to an employee on a modified duty assignment may differ from the employee's regular assignment. The employee's wage

rate shall remain the same. An employee may schedule paid time off during the temporary modified duty assignment.

6) Continuation of a temporary assignment shall be at the discretion of the department head and Town Manager. An employee who does not perform duties as assigned may be subject to disciplinary action.

7) An employee under the care of a health professional, whether at work or on sick leave for greater than three (3) days, shall present his/her supervisor with an update on his/her condition no less than once per week during his/her illness or rehabilitation.

8) An employee who has returned to work but is under the care of a medical professional shall seek such services outside of normal Town business hours **whenever possible and with the approval of the Town Manager**.

9) An employee who files a claim for Workers Compensation benefits gives up any physician-patient privilege with regard to any medical records directly or indirectly relating to treatment of the injury that was claimed to be work-related. The Town of Fenwick Island, therefore, has the right to make a written request for copies of all medical records including patient history, diagnosis of any illness, treatment/intervention prescribed or provided and the patient's response to treatment.

10) An employee returning to work from Workers Compensation must present his/her supervisor with a completed Workers Compensation Physician Report before any hours are assigned.

11) If the employee's injury does qualify as a disability under the Americans with Disabilities Act (ADA), The Town of Fenwick Island will take whatever steps are necessary to comply with the ADA and provide the employee with a reasonable accommodation that will allow him/her to perform the essential functions of his/her regular job. If no reasonable accommodation can be made, The Town of Fenwick Island will consider whether there are other positions within the Town, which are open, for which the employee is qualified and which meets the employee's restrictions.

If there are none, the employee will be placed on leave until one of the following occurs:

- a. The employee notifies the Town that his/her restrictions have changed to the extent that the restrictions can now be accommodated;
- b. The employee applies for a position which becomes open while he/she is on leave and for which he/she is qualified and said position meets his/her restrictions and the employee is selected for said position;
- c. The employee's leave exceeds the length of time provided by the current Town of Fenwick Island Leave of Absence Policy, provided that a longer period of absence may be considered in accordance with the Town's commitment to provide reasonable accommodation to person with disabilities.

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## C. Severability

If any of the provisions of this article are found to be non-compliant with employment practices law, the remaining provisions shall remain in force.

Passed September 16, 2011 by Council Vote (5-0)

Change to be made to manual only – not by resolution. Minor changes do not warrant a separate Resolution

Agnes DiPietrantonio  
Town Clerk